

BEFORE THE BOARD OF DENTAL EXAMINERS
STATE OF IOWA

IN THE MATTER OF :)	
)	
TERRY L. THURMAN, D.D.S.)	
1616 Rockingham Road)	FINDINGS OF FACT,
Davenport, Iowa 52802)	CONCLUSIONS OF LAW,
)	DECISION AND ORDER
License #6091)	
)	
Respondent)	

TO: TERRY L. THURMAN, D.D.S.

Pursuant to the Iowa Board of Dental Examiners' Notice of Reinstatement Hearing dated April 26, 2001, this matter came on for hearing before the Board on July 19, 2001 at 8:30 a.m. in the Board Conference Room, 400 S.W. 8th Street, Suite D, Des Moines, Iowa. The following members of the Board presided at the hearing: LeRoy Strohman, Board Vice-Chairperson; Deena R. Kuempel, D.D.S.; George F. North, D.D.S.; Alan Hathaway, D.D.S.; Richard M. Reay, D.D.S.; Debra Yossi, R.D.H.; and Suzan Stewart, Public Member.

The Respondent, Terry L. Thurman, D.D.S., appeared in person and was not represented by counsel. The State was represented by Theresa O'Connell Weeg, Assistant Attorney General. Margaret LaMarche, Administrative Law Judge, assisted the Board in conducting the hearing. The hearing was recorded by a certified court reporter. The hearing was closed to the public at the request of the Respondent, pursuant to Iowa Code section 272C.6(1).

The Board, having heard the testimony and having examined the exhibits, and after convening in closed executive session pursuant to Iowa Code section 21.5(1)(f)(2001) to deliberate, directed the administrative law judge to prepare their Findings of Fact, Conclusions of Law, Decision and Order, in conformance with their deliberations.

THE RECORD

The record includes the Notice of Reinstatement Hearing; the testimony of the witness; and the following exhibits:

Respondent Exhibit A: Findings of Fact, Conclusions of Law, Decision and Order, issued 10/19/00

Respondent Exhibit B: Letter dated 11/1/00 (Hall, DDS, MS to Respondent)

Respondent Exhibit C: Dental Record Keeping Course Outline

Respondent Exhibit D: Submission of Record Keeping Course for Board Approval

Respondent Exhibit E: Board Approval Record Keeping Course

Respondent Exhibit F: Letter dated 11/16/00 (Hall, DDS to Board)

Respondent Exhibit G: Memo dated 11/29/00 (Price to Respondent)

Respondent Exhibit H: Documents from University of Illinois at Chicago

Respondent Exhibit I: Letter dated 4/16/01 (Respondent to Board)

Respondent Exhibit J: Respondent's proposed protocol for Valium

Respondent Exhibit K: Letter dated 4/16/01 (Hall, DDS and Respondent to Board)

Respondent Exhibit L: Letter dated 6/1/01 (McEchron, Ph.D. to Board)

State Exhibit A: [First] Statement of Charges, 4/15/94

State Exhibit B: First Amended Statement of Charges, 5/23/94

State Exhibit C: Second Amended Statement of Charges, 12/19/94

State Exhibit D: Stipulation and Consent Order, 3/7/95

State Exhibit E: [Second] Statement of Charges, 5/15/97

State Exhibit F: Motion to Amend Statement of Charges, 10/10/97

State Exhibit G: Resistance to Motion to Amend, 10/14/97

State Exhibit H: Ruling on Motion to Amend Statement of Charges, 10/28/97

State Exhibit I: Findings of Fact, Conclusions of Law, Decision and Order, 3/31/98

State Exhibit J: Findings of Fact, Conclusions of Law, Decision and Order, 11/1/98

State Exhibit K: Findings of Fact, Conclusions of Law, Decision and Order, 10/19/00

FINDINGS OF FACT

1. On September 24, 1975, the Respondent was issued license number 6091 by the Board to engage in the practice of dentistry, subject to the laws of the state of Iowa and the rules of the Board. (State Exhibit I)

2. The Respondent has a lengthy disciplinary history with this Board. On April 15, 1994, the Board issued a Statement of Charges which charged the Respondent with failure to maintain a reasonably satisfactory standard of competency in the practice of dentistry and with unethical or unprofessional conduct. The Statement of Charges was later amended to add additional factual circumstances.

On March 7, 1995, these charges were resolved when the Respondent entered into a Stipulation and Consent Order which placed the Respondent's dental license on probation for a minimum period of two years, subject to numerous terms and conditions. The terms and conditions included, but were not limited to, a prohibition from providing services in the area of removable prosthodontics, unless the Respondent successfully completed a Board approved remediation program. The Respondent was also required to take continuing education courses in local

anesthetic, oral pre-operative sedation, and post-operative care of patients. In compliance with the Consent Order, the Respondent enrolled in and completed a remedial course of study at the University of Iowa in complete denture prosthodontics. (State Exhibits A-D, I)

3. On May 15, 1997, a second Statement of Charges was filed against the Respondent that charged him with failure to maintain a reasonably satisfactory standard of competency and failure to comply with the Stipulation and Consent Order. On October 28, 1997, the Statement of Charges was amended to add additional counts and factual allegations of indiscriminate or promiscuous prescribing or dispensing of drugs for other than lawful purposes, inadequate record keeping, and failure to diagnose an infection.

On March 31, 1998, following a two day hearing, the Board issued Findings of Fact, Conclusions of Law, Decision and Order. In its Decision and Order, the Board concluded:

a) The Respondent failed to maintain a reasonably satisfactory standard of competency in his dental practice, although he had completed a Board approved remediation program. With respect to the Respondent's fabrication of dentures, the Board cited the Respondent's deficient use of tissue conditioner, the unacceptable quality of the acrylic finish, and numerous problems with occlusion, extensions and fit. The Board also concluded that the Respondent kept inadequate records of treatment.

b) The Respondent's conduct with patients was unprofessional in that he made abusive, rude, sarcastic, intimidating and harassing statements to some of his patients. This behavior also violated a previous order of the Board that specifically required the Respondent to behave in a professional manner towards patients and staff at all times.

c) The Respondent violated a Board rule when he failed to consistently make required record entries when he administered medications to patients.

d) The Respondent failed to maintain a reasonably satisfactory standard of competency in his dental practice with regard to his record keeping and administration of

controlled substances and in his use of oral Nembutal capsules to achieve conscious sedation of his patients.

In its Decision and Order, the Board indefinitely suspended the Respondent's dental license. The Board further ordered that within thirty (30) days, the Respondent was required to make arrangements for a complete physical, substance abuse and psychiatric evaluation at a facility approved by the Board. The Board stated that after reviewing the results of the evaluation and any recommendations made by the evaluating facility, the Board would determine when and under what circumstances the Respondent's license could be reinstated. (State Exhibits E-I)

4. On August 21, 1998, the Respondent filed an Application for Reinstatement of his dental license with the Board and a hearing was held on October 15, 1998. On November 1, 1998, the Board issued Findings of Fact, Conclusions of Law, and Order that denied the Application for Reinstatement. The Board suggested that the Respondent develop a program which would allow him to identify and gain personal insight into the reasons for his numerous practice deficiencies and to devise a program which would allow him to address and correct each of those deficiencies; to convince the Board that he has done so; and to assure the Board that the problem would not recur. (State Exhibit J)

5. On June 19, 2000, the Respondent filed a second Petition for Reinstatement with the Board, and a hearing was held on September 6, 2000. As of August 24, 2000, the Respondent had been in treatment for several months with Dr. W. David McEchron, a licensed psychologist in Davenport, Iowa.

Dr. McEchron performed a complete evaluation of the Respondent, including psychological testing. Dr. McEchron concluded that the Respondent may have had a problem with Attention Deficit Disorder as a child for which he has overcompensated. Dr. McEchron believes that the Respondent has developed an overlay of obsessive-compulsive strategies to try to prevent any impulsiveness that might be associated with the attention deficit problem. Dr. McEchron did not find strong signs of other personality disorder features.

Dr. McEchron recommended continued individual therapy twice each month for the first three months, and thereafter monthly for the balance of the first year. Dr. McEchron also recommended the

use of Patient Satisfaction Surveys, which could be used in providing direction to the Respondent during therapy. Finally, Dr. McEchron recommended monthly joint meetings between himself, the Respondent, and the Respondent's monitoring dentist, during the first three months of dental practice. (State Exhibit K)

6. On October 19, 2000, the Board issued a decision denying the Respondent's second Petition for Reinstatement. The decision specified the following requirements that the Respondent would have to complete before the Board would consider reinstatement:

- a. Complete a comprehensive clinical assessment, at an accredited dental school, prior approved by the Board. A report of findings, which shall include any recommendations for remediation or practice restrictions, shall be prepared by the dental school and provided to the Board.

- b. Continue in active therapy with Dr. McEchron at a minimum frequency of two sessions a month. The Respondent shall sign a release, and Dr. McEchron shall provide monthly reports of the Respondent's progress to the Board.

- c. Complete a Board approved course in record keeping and provide written verification of completion to the Board.

(Testimony of Respondent; Respondent Exhibit A)

7. The Respondent completed a Board approved course in record keeping on November 15, 2000. (Testimony of Respondent; Respondent Exhibits B-F)

8. The Respondent completed a four-day clinical assessment at the College of Dentistry, University of Illinois at Chicago from May 12-15, 2001. The comprehensive clinical assessment was approved by the Board. The Respondent's overall performance on the clinical assessment was satisfactory.

However, the evaluators' report noted areas that needed improvement, including the Respondent's record entries, which were very difficult to read. The evaluators noted some deficiencies that could be addressed through attendance of continuing education. The evaluators noted the following specific areas of concern:

a. Organizational skills. Past patient complaints have included office cleanliness, and it was noted during the assessment that the Respondent left the clinical area in complete disarray.

b. Occlusal schemes and their importance in restorative treatment. The evaluators concluded that the Respondent could benefit from a review of concepts, such as group function, cuspid protection, and the current concept of centric relation and its use in treatment.

c. Restoration of endodontically treated teeth. An update would help the Respondent adopt a more conservative approach regarding post placement and would benefit his patients.

d. A review of current dental materials, including the use of sealers, bases and liners.

The Respondent is willing to take any continuing education courses required by the Board. He is planning to dictate his patient records to address concerns about their legibility. (Testimony of Respondent; Respondent Exhibits G, H)

9. On March 21, 2001, the Respondent's clinical and laboratory knowledge of complete denture treatment was assessed at the University of Illinois-Chicago. The assessment was based solely on a two-hour interview and concluded that the Respondent's knowledge of most of the topics addressed was adequate. The need for improvement was noted in the following areas:

a. Selection of impression materials and impression taking.

b. Complete denture occlusion and articulation.

At his previous reinstatement hearing, the Respondent had stated that he no longer intended to fabricate complete or immediate dentures. However, the Respondent has since reconsidered and is now interested in fabricating complete or immediate dentures. He states that he would process the dentures outside of his office, to address past concerns about rough finish and the cleanliness issues associated with a laboratory in the dental office. (Testimony of Respondent; Respondent Exhibits K, I)

10. The Respondent submitted a proposed protocol for the use of Valium in his dental office as an anti-anxiety agent for adults only. The Respondent testified that he prefers Valium to nitrous oxide because he does not believe that nitrous oxide is safe. (Testimony of Respondent; Respondent Exhibit J)

11. The Respondent proposes that Dr. Daniel Hall, DDS, MS, be approved as his practice monitor. The Respondent and Dr. Hall submitted a brief monitoring agreement for the Board's review. (Testimony of Respondent; Respondent Exhibit K)

12. The Respondent has been continuing in treatment with Dr. W. David McEchron, Ph.D., on a weekly or bi-weekly basis. Therapeutically, Dr. McEchron views the Respondent's involvement with patients and staff members as the next focus for treatment. (Testimony of Respondent; Respondent Exhibit L)

CONCLUSIONS OF LAW

650 IAC 51.34 provides the procedure for the reinstatement of a dental license that has been revoked or suspended by the Board. It provides, in relevant part:

51.34(1) Any person whose license has been revoked or suspended by the board may apply to the board for reinstatement in accordance with the terms of the order of revocation or suspension.

51.34(2) If the order of revocation or suspension did not establish terms upon which reinstatement might occur,...an initial application for reinstatement may not be made until one year has elapsed from the date of the final order.

51.34(3) All proceedings for reinstatement shall be initiated by the respondent, who shall file with the board an application for the reinstatement of the license. All proceedings upon the petition for reinstatement shall be subject to the same rules of procedure as other disciplinary matters before the board.

51.34(4) An application for reinstatement shall allege facts which, if established, will be sufficient to enable the board to determine that the basis for the

revocation or suspension no longer exists and that it will be in the public interest for the license to be reinstated. The burden of proof to establish these facts shall be on the respondent.

...
51.34(6) The order to grant or deny reinstatement shall include findings of facts and conclusions of law. If reinstatement is granted, terms and conditions of licensure may be imposed. Such terms and conditions may include restrictions on the licensee's practice. This order will be published as provided for in rule 51.33(153)

The Board is satisfied that the Respondent has undertaken the necessary steps to address the reasons for the indefinite suspension of his dental license and that his license can now be reinstated, subject to certain restrictions and conditions which are necessary to protect the public interest.

Although the Respondent's overall assessment at the University of Illinois-Chicago was satisfactory, the evaluators' comments reveal several practice areas needing improvement. The Board agrees that these areas requiring improvement can be addressed by prompt attendance at university sponsored continuing education courses.

The Board continues to believe that the protection of the public requires that the Respondent's return to active dental practice be closely monitored by a Board approved practice monitor. It is essential that the Board review and approve the specific terms of the monitoring agreement and the frequency of the Respondent's contact with his monitor.

In addition, there are other forms of monitoring and reporting which will assist the Respondent and the Board in ensuring that the Respondent's patients receive appropriate care. These include ongoing treatment with Dr. McEchron or another approved provider; patient satisfaction surveys; informed consent and complete documentation of case plans and treatment plans, and some restrictions on the Respondent's dental practice.

The Respondent has requested approval of a protocol for the use of Valium as an anti-anxiety agent for adult patients. The Board is not convinced that it is necessary for the Respondent to prescribe or use anti-anxiety agents on his patients.

Moreover, the Board has serious reservations about this proposal given the Respondent's prior violations that involved the use of Nembutal for conscious sedation. The Board believes that the Respondent should not use anti-anxiety agents during his initial return to practice.

ORDER

IT IS THEREFORE ORDERED, that dental license number 6091, issued to Terry L. Thurman, D.D.S., is hereby REINSTATED and placed on PROBATION for an indefinite period, subject to the following terms and conditions:

A. Prior to the return to practice, Respondent must enter into an agreement with another licensed dentist to serve as a practice monitor. The name and credentials of the proposed practice monitor and the terms of the proposed monitoring agreement shall be submitted to the Board for prior approval. The Respondent shall ensure that the practice monitor submits monthly reports to the Board for the first six (6) months, and quarterly reports thereafter. All costs associated with such monitoring shall be the sole responsibility of the Respondent.

B. Within three (3) months of his return to practice, the Respondent must successfully complete university sponsored continuing education at a dental school in the following practice areas: Endodontics, Periodontics, Prosthodontics, Pedodontics, Occlusion, and Dental Materials. All must be extensive participation courses, with the exception of Dental Materials, that are prior approved by the Board. All costs of attendance shall be the Respondent's responsibility.

C. The Respondent shall attend weekly therapy sessions with a Board approved therapist for the first three months of practice. Thereafter, the frequency of therapy sessions may be reduced on the recommendation of his therapist. The therapist shall continue to provide monthly written reports to the Board. The Respondent may only be discharged from therapy after a written discharge summary is prepared by the therapist and approved by the Board.

D. The Respondent shall provide notice to all current and future licensees in his practice, employers, and employees of this action against his license. The Respondent shall report back to the Board with signed statements from all current and future licensees, employers, and employees, within ten (10) days of any new employment relationship, that they have read and understood the Statement of Charges and this final Order.

E. The Respondent shall designate a staff person(s) to distribute patient satisfaction surveys to all patients and to collect all completed surveys and send them to the Respondent's approved therapist. All staff person(s) shall sign a written verification that they have been provided a copy of the Board's Reinstatement Order and have read it.

F. The Respondent's record for every patient must include documentation of his case plan and treatment plan for the patient, as well as documentation that he has discussed alternate treatment options, potential complications, and known risks of the treatment.

G. If the Respondent elects to fabricate dentures for patients, all process and finish work on the dentures must be performed by an outside laboratory.

H. The Respondent will be prohibited from providing or prescribing any sedation or anti-anxiety medications of any type until further order of the Board.

I. The Respondent shall fully cooperate with random, unannounced visits from a designee of the Board.

J. The Respondent shall appear before the Board upon request at such time and place as the Board so designates.

K. The Respondent shall submit monthly written reports to the Board, commencing thirty (30) days after the issuance of the Reinstatement Order, stating his compliance with all of the terms of the Reinstatement Order as well as a personal statement as to his progress. After six months from the date of this Order, Respondent shall submit such reports on a quarterly basis.

L. Respondent shall fully and promptly comply with all the pertinent Orders of the Board and the statutes and Board rules regulating the practice of dentistry in Iowa.

M. All costs associated with this Order are the sole responsibility of the Respondent. Respondent's remittance for costs shall be made promptly.

N. Any violation of the terms of this Order is grounds for further disciplinary action upon notice and opportunity for hearing for failure to comply with an Order of the Board, in accordance with Iowa Code section 272C.3(2)(a).

Dated this *16th* day of *August*, 2001.

LeRoy I. Strohman D.D.S.

LeRoy I. Strohman, D.D.S.

Vice-Chairperson

Iowa Board of Dental Examiners

cc: Theresa O'Connell Weeg
Office of the Attorney General
Hoover Building
Des Moines, Iowa 50319

Judicial review of the board's decision may be sought in accordance with the terms of Iowa Code chapter 17A and Iowa Code section 153.33(5)(g) and (h).